

Remarks

This Amendment is in response to the Office Action dated **November 28, 2008**.

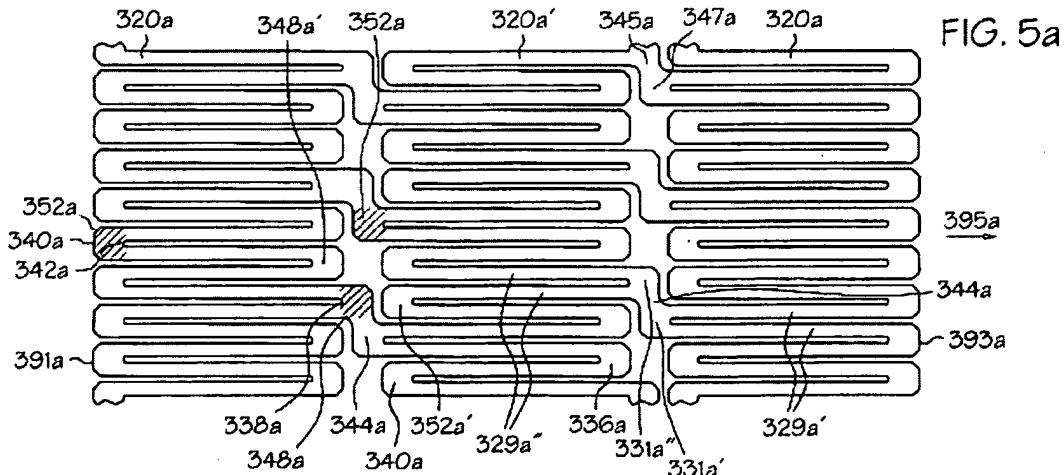
Claims 38-45 are pending in this application. Claims 41 and 43 have been withdrawn from consideration. The Office Action rejected claims 38, 40, 42, 44 and 45 under 35 USC § 102 over Wijay (US 5824059), or in the alternative under 35 USC § 103 over Wijay; and rejected claim 39 under 35 USC § 103 over Wijay.

By this Amendment, claims 38, 39 and 45 are amended and, claims 46-52 are added. Support for the amendments can be found at least in elected species IV, corresponding to Figure 5a. Applicants reserve the right to prosecute any cancelled subject matter in a subsequent patent application claiming priority to the immediate application. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

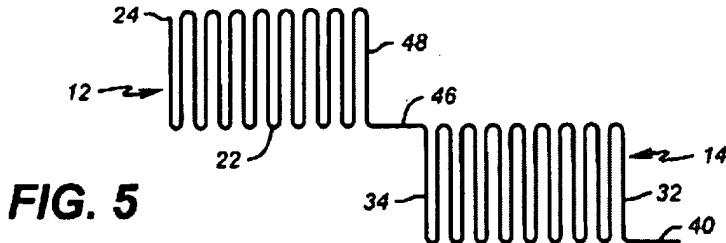
Claim Rejections

Without acquiescing to the validity of any rejection presented in the Office Action, independent claims 38 and 45 are amended for clarification purposes. The amendment renders the rejections moot.

Independent claims 38 and 45 each recite “a plurality of adjacent closed circumferential support structures.” As shown in Figure 5a, provided below, the claimed circumferential support structures are closed – e.g. a “closed circumferential support structure” forms a complete closed circuit.



Wijay teaches a stent wherein a single continuous wire is wound to form the rings, for example as shown in Figure 5, provided below. See also Figure 1 and column 4, lines 44-67.



Thus, the rings 12, 14 of Wijay are "open." Wijay does not disclose or suggest a stent having "closed circumferential support structures" as required by the rejected claims. Therefore, claims 38 and 45 are patentable over Wijay under 35 USC § 102. Claims depending from claim 38 are patentable over Wijay for at least the same reason.

Further, the rejection does not cite to any teaching that would have motivated a person of skill in the art to modify Wijay in a way that would result in a stent that meets the limitations of the claims rejected under 35 USC § 103.

Accordingly, Applicants request withdrawal of the claim rejections asserted in the Office Action.

New Claims

Claims 46-52 are added, corresponding to claims copied from US 2008/0281404.

As noted in the preliminary amendment filed March 15, 2004, claims 38-45 of the application were copied from US 2003/0055485 to Lee. These claims appear to have been abandoned by Lee, who filed a continuation that published as US 2008/0281404. The claims added by this amendment have been copied from the Lee continuation.

Specifically, new claims 46-48 correspond to claims 21-23 of US 2008/0281404. New claims 49-52 correspond to claims 29-32 of US 2008/0281404.

New claims 46-52 are fully supported by the original disclosure of the immediate application, of which claims 46-48, 50 and 52 are believed to read upon elected species IV, corresponding to Figure 5a.

Conclusion

Based on at least the foregoing amendments and remarks, Applicants respectfully submit this application is in condition for allowance. Favorable consideration and prompt allowance of claims 38-41 and 43-52 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

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